STATUTORY INSTRUMENTS

2018 No. 56

PETROLEUM
DEVOLUTION, SCOTLAND

The Scotland Act 2016 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018

Made - - - -	*17th January 2018*
Laid before Parliament	*19th January 2018*
Coming into force in accordance with regulation 1(2)	

The Secretary of State for Business, Energy and Industrial Strategy makes the following Regulations in exercise of the powers conferred by section 4(1), (1B), (2) and (3) of the Petroleum Act 1998 [F1] and sections 49(1) and (3) and 71(1), (2), (5) and (6) of the Scotland Act 2016 [F2].

Annotations:

F1 1998 c.17. Section 4 was amended by S.I. 2016/898. Amendments are also made to section 4 that have not yet entered into force. Section 4(1B) is to be inserted with the commencement of section 48(7) of the Scotland Act 2016 (c.11) (on a date to be appointed). Section 4 is further amended by the Wales Act 2017 (c.4), **Schedule 6**, paragraph 15 (on a date to be appointed) and by Part 3 of S.I. 2016/898, **regulation 3(3)**.

F2 2016 c.11.

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Scotland Act 2016 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018.

(2) These Regulations come into force immediately after section 48 of the Scotland Act 2016.

(3) An amendment or modification made by these Regulations has the same extent as the provision to which it relates.

PART 2

Amendments to secondary legislation

Hydrocarbons Licensing Directive Regulations 1995

2.—(1) The Hydrocarbons Licensing Directive Regulations 1995 [F3] are amended as follows.

(2) After regulation 1, insert—

"**Application**

1A.—(1) Except for regulations 2, 4 and 5(2), these Regulations do not apply in relation to a licence in respect of an area within the Scottish onshore area.

(2) In this regulation, "Scottish onshore area" has the meaning given in section 8A(3) of the Petroleum Act 1998 [F4].".

(3) In regulation 5(2), for "invites" substitute " or the Scottish Ministers invite ".

Annotations:

F3 S.I. 1995/1434, amended by S.I. 2016/912.

F4 1998 c.17. Section 8A is inserted by section 48(16) of the Scotland Act 2016 from a date to be appointed.

Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014

3.—(1) The Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 [F5] are amended as follows.

(2) After regulation 1, insert—

"**Application**

1A.—(1) Except for regulations 1(2) and 2(1A) and Schedules 2A and 3A, these Regulations do not apply in relation to a landward petroleum exploration licence or a petroleum exploration and development licence in respect of an area within the Scottish onshore area.

(2) In this regulation, "Scottish onshore area" has the meaning given in section 8A(3) of the Petroleum Act 1998.".

(3) In regulation 1(2), for the definition of "landward area" substitute—

""landward area" means an area of Great Britain that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea) [F6].".

(4) After regulation 2(1), insert—

"(1A) For the purposes of section 4(1B) of the Petroleum Act 1998—

(a) the model clauses prescribed for petroleum exploration and development licences are those set out in Schedule 2A; and

(b) the model clauses prescribed for landward petroleum exploration licences are those set out in Schedule 3A."

(5) Omit Schedule 1.

(6) After Schedule 2, insert Schedule 2A as set out in Schedule 1 to these Regulations.

(7) After Schedule 3, insert Schedule 3A as set out in Schedule 2 to these Regulations.

Annotations:
F5 S.I. 2014/1686, amended by S.I. 2016/912 and 2017/855.
F6 1987 c.49. The existing baselines were established by S.I. 2014/1353.

Petroleum Licensing (Application) Regulations 2015

4.—(1) The Petroleum Licensing (Application) Regulations 2015 [F7] are amended as follows.

(2) In regulation 2—

(a) for the definition of "landward area" substitute—

""landward area" means an area of Great Britain that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea);";

(b) for the definition of "low water line" substitute—

""low water line" means the line so marked on the Ordnance map on a scale of 1:25,000 in the case of maps relating to Great Britain, and 1:50,000 in the case of maps relating to Northern Ireland, in the edition for the areas to which they respectively relate last published prior to the date on which these Regulations are made;", and

(c) for paragraph (a) in the definition of "seaward area" substitute—

"(a) islands on the seaward side of the baselines around Great Britain established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987,".

(3) At the beginning of regulation 3(1), insert " Subject to paragraph (1A), ".

(4) After regulation 3(1), insert—

"(1A) These Regulations do not apply in relation to a landward petroleum exploration licence or a petroleum exploration and development licence in respect of an area within the Scottish onshore area.

(1B) In this regulation, "Scottish onshore area" has the meaning given in section 8A(3) of the Petroleum Act 1998."

(5) Omit Schedule 1.

Annotations:
F7 S.I. 2015/766, amended by S.I. 2016/912 and 2017/855.

Oil and Gas Authority (Fees) Regulations 2016

5.—(1) The Oil and Gas Authority (Fees) Regulations 2016 [F8] are amended as follows.

(2) After regulation 1, insert—

"**Application**

1A.—(1) These Regulations do not apply in relation to a petroleum licence in respect of an area within the Scottish onshore area.

(2) In this regulation, "Scottish onshore area" has the meaning given in section 8A(3) of the Petroleum Act 1998.".

Annotations:

F8 S.I. 2016/904, amended by S.I. 2017/426.

PART 3

Amendments to existing licences, transitional provision and savings

Interpretation

6. In this Part, "existing licence" has the meaning given in section 49(5) of the Scotland Act 2016 [F9].

Annotations:

F9 2016 c.11. "Existing licence" is defined in s49(5) as a licence granted, before the commencement of section 47, under section 3 of the Petroleum Act 1998, or section 2 of the Petroleum (Production) Act 1934, in respect of an area all or part of which is within the Scottish onshore area, within the meaning given by Section D2 of Part 2 of Schedule 5 to the Scotland Act 1998.

Amendment to existing licences

7.—(1) Subject to paragraph (3), any existing licence has effect as if—

(a) in clauses or parts of clauses corresponding to clause 1(1) of the relevant Schedule, in the definition of "Block", for the words "London, SW1" there were substituted " Glasgow, G2 8LU ";

(b) in clauses or parts of clauses corresponding to clauses 4(1)(a) or 5(1) of the relevant Schedule, the words "to payment of those sums hereinafter provided for and" were omitted;

[[F10](c) clauses or parts of clauses corresponding to clauses 9, 25(5), 31, 32 or 36(2)(a) of the relevant Schedule were omitted;**]**

[F11](d) . . . . . .

(e) except in the definition of "the OGA", references to "the OGA" (including references having effect as such), "the Secretary of State" or "the Minister" were references to "the Scottish Ministers".

(2) Any existing licence has effect as if the clauses in Schedule 3 to these Regulations were incorporated in the licence.

(3) Paragraph (1) does not apply to any clause incorporated under paragraph (2).

(4) In this regulation, "the relevant Schedule" means Schedule 6 to the Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004 [F12].

Annotations:

F10 Reg. 7(1)(c) substituted (1.10.2018) by The Scotland Act 2016, Wales Act 2017 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018 (S.I. 2018/980), regs. 1(1), **7(2)** (with reg. 16)

F11 Reg. 7(1)(d) omitted (1.10.2018) by virtue of The Scotland Act 2016, Wales Act 2017 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018 (S.I. 2018/980), regs. 1(1), **7(3)** (with reg. 16)

F12 S.I. 2004/352, amended by section 77 of, and paragraph 20 of Schedule 3 to, Energy Act 2008 (c.32), **S.I**. 2006/784, S.I. 2009/229 and S.I. 2009/3283. Schedule 6 is disapplied by regulation 2(2) of S.I. 2014/1686 in relation to any licence granted on or after the commencement of that instrument.

Transitional modification of the Hydrocarbons Licensing Directive Regulations 1995

8.—(1) This regulation applies until any legislation made by the Scottish Ministers or Scottish Parliament relating to any matter to which the Hydrocarbons Licensing Directive Regulations 1995 relate comes into force.

(2) In relation to any application for a licence to be determined by the Scottish Ministers or any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998 [F13], the Hydrocarbons Licensing Directive Regulations 1995 have effect as if they had been made by the Scottish Ministers.

(3) In relation to any application for a licence to be determined by the Scottish Ministers or any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998, the Hydrocarbons Directive Licensing Regulations 1995 have effect as if—

(a) regulation 1A as inserted by regulation 2(2) of these Regulations were omitted, and

(b) with the exception of regulation 5(2), references to "the OGA" were references to "the Scottish Ministers".

Annotations:

F13 Section 3 is modified by S.I. 2016/898, **regulation 2(2)**. Amendments are also made to section 3 that have not yet entered into force. Section 3 is to be amended by section 48(2) to (4) of the Scotland Act 2016 (c.11) (on a date to be appointed) and Part 3 of S.I. 2016/898, **regulation 3(2)**.

Transitional modification of the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014

9.—(1) This regulation applies until the Scottish Ministers exercise section 4(1)(e) of the Petroleum Act 1998 [F14].

(2) Subject to paragraph (3), in relation to any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998, the 2014 Regulations have effect as if they had been made by the Scottish Ministers.

(3) Paragraph (2) does not apply for the purposes of regulation 2(1A) and Schedules 2A and 3A as inserted by regulation 3(4), (6) and (7) of these Regulations.

(4) In relation to any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998, the 2014 Regulations have effect as if—

(a) regulation 1A as inserted by regulation 3(2) of these Regulations were omitted;

(b) in Schedule 2—

(i) in clause 1(1)—

(aa) in the definition of "Block", for the words "Aberdeen, AB10" there were substituted "Glasgow, G2 8LU, and

(bb) the definition of "the OGA" were omitted;

(ii) in clauses 5(1)(a) and 7(1), the words "to payment of those sums hereinafter provided for and" were omitted;

(iii) in clause 6(2), the words "to payment of the sums specified in Schedule 2 and" were omitted;